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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
HUBERT HAUSER, ET AL.	: EXAMINER: PARKER, F.
SERIAL NO: 10/518,534	:
FILED: SEPTEMBER 13, 2005	: GROUP ART UNIT: 1792
FOR: MARKING HEAT-TREATED SUBSTRATES	:

REPLY BRIEF UNDER 37 C.F.R. §1.93(b)

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

The present Reply Brief is presented in order to point out and respond to the erroneous assertions and arguments raised in the Examiner's Answer (hereinafter, the EA) mailed on May 19, 2008.

ERRONEOUS ASSERTIONS AND ARGUMENTS AS TO OBVIOUSNESS

A. THE REASONABLE TEACHINGS OF DAUBA ET AL.

The erroneous assertions and arguments as to obviousness in the EA begin at page 3 with the unreasonable interpretation by the Examiner in Applicants' opinion of the teachings of Dauba et al.. Here the Examiner once more attempts to make the improper assumption that the marking referred to in Dauba et al. is "permanently bonded" to a "marking field" having an "uneven surface structure" such that the color of the marking layer is thereby "irreversibly modified", as claimed in claim 18. More particularly, the Examiner has concluded that the discussion in Dauba et al. with regard to a "heat soak test" as discussed at column 5, lines 9-25, anticipate Applicants' claim limitations. Applicants note in this regard, however, that the

only disclosure in Dauba et al. is that a glazing be indelibly marked under the limited circumstances of "normal handling" and "storage conditions" as discussed at column 3, lines 5-8 or to be so marked without the risk of the ink being removed "during various handling operations" as discussed at column 7, lines 25-31. Applicants submit that the Examiner has therefore clearly overly broadly interpreted the teachings of Dauba et al. so as to encompass a situation where marking layer is *permanently* bonded on a glass pane to a marking field wherein the color of the marking layer is thereby *irreversibly* modified by a heat treatment, as presently claimed. Contrary to the claimed invention, Dauba et al. specifically indicates, for example, in method Claim 6 of such reference that the substance (defined as being a curable ink in Claim 7) "can be removed at a temperature above the temperature of the heat treatment defining the resulting optical characteristic". Also, Danuba et al. contains no teaching of any marking field having an "uneven surface" as claimed in Claim 18. It would therefore be clear to one of ordinary skill in the art that Dauba et al. does not teach or disclose any intention of or contain any disclosure which supports Applicants claimed limitation of permanently bonding the ink substance to a marking field with an uneven surface of a glass pane and instead such reference only teaches making such ink indelible on a glazing and only to the extent of, and only for the limited purposes of, being indelible during normal handling and storage conditions of such glazing. Accordingly, it is submitted that Dauba et al. clearly does not anticipate Applicants' claimed limitations, as incorrectly concluded by the Examiner at page 3 of the Examiner's Answer.

B. THE DISCLOSURE IN APPLICANTS' SPECIFICATION

The Examiner has concluded on page 5, last paragraph, of the EA that Applicants' own specification at page 6, lines 11-26 indicates that markings can be removed so that vestiges thereof may be visible only under magnification and that therefore the degree of

permanence alluded by Applicants' claim and Dauba et al. would be comparable. Applicants note in this regard the language in the specification at page 6, lines 11-26 quoted by the Examiner also includes the statement that, because of the intimate bonding between the marking layer and the structured surface of the subjacent marking field, "it is consequently no longer possible to completely remove the color with a blade or other tools" and that, even by rubbing strongly with glass wool, "residues of color could still be identified using a microscope." Applicants submit that a microscope is merely a tool of inspection and would be readily capable of use in determining the existence of the color in the glass pane. Such language further indicates that likewise, "it is still possible to determine without any problems, by analysis, what color was employed." Since there is clearly no corresponding teaching or disclosure in Dauba et al. of this claimed feature, it is submitted that Applicants' own disclosure does not render the claimed invention readable on the teachings and disclosures of Dauba et al.

C. THE EXAMINER'S INTERPRETATION OF THE MEANING OF APPLICANTS' CLAIMED "MARKING FIELD" OF APPLICANTS' INVENTION AS COMPARED WITH THE TEACHINGS OF DAUBA ET AL.

On page 6, lines 3-11, the Examiner has incorrectly interpreted the teachings of Dauba et al. by inferring that the marking which is an indicator of a "heat soak test" teaches a marking substance of the type presently claimed. Applicants note in this regard that there is no mention in any portion of Dauba et al. of a "marking field" on a glass plane as defined in Applicants' specification. In this regard, the definition of a "marking field" is discussed at page 7, line 26 through page 8, line 14 which states:

> As may be seen in the enlarged cross section of figure 2, the marking field 3 is essentially composed of a flat element 5, consisting of an appropriate paste to be baked, applied during the same operation as the stamp 2 to the surface 4 of the glass pane 1. The element 5 in this case is in the form of a grid pattern surrounded by a circular line, with ribs 6, as already

> illustrated in figure 1. The ribs 6 project by about 5 to 35 μm above the surface of the glass and each time define intermediate spaces 7, at the bottom of which the surface of the glass may be bare.
>
> Deposited on the surface covered by the element 5 is a paint of a thermochromic color 8, which has penetrated the intermediate spaces 7 but which has also covered or which may cover the upper faces of the ribs 6 of the grid pattern. The intermediate spaces 7 must be large enough to allow the color 8 to penetrate, but small enough to ensure that simple tearing with mechanical tools is prevented. From the standpoint of the manufacturing technique, intermediate spaces with a width W of, for example, 0.5 to 0.7 mm do not cause problems. The height of the element 5 above the surface of the substrate is therefore shown here in a much too large size compared with the width of the intermediate spaces.

In view of the foregoing, Applicants submit that the Examiner's interpretation of the teachings of Dauba et al. are without proper foundation with respect to the conclusion that Dauba et al. teaches Applicants' claimed limitations. It is therefore submitted that the marking field as claimed in independent Claims 18 and 35 clearly has no teaching or disclosure in Dauba et al. or any of the remaining references of record.

CONCLUSION

The EA clearly fails to establish any valid *prima facie* case of obviousness or anticipation of the subject matter of independent Claims 18 or 35. Therefore, reversal of the rejection of Claims 18-35 is believed to be in order and the same is hereby respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
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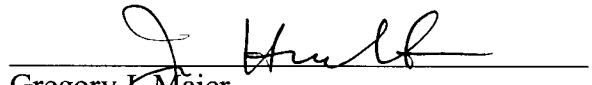

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